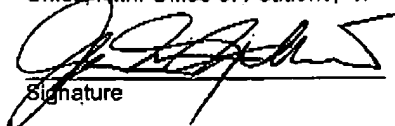


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In re the Application of: Shepherd, et al.	Date: 10 April 2008
Serial Number: 10/729,809	Group Art Unit: 3634
Filed: 5 December 2003	Examiner: Thompson, Hugh B.
Title: "Scaffold and Access Brace for Same"	Attorney Docket No: 8029-A-1

I hereby certify that this correspondence is being faxed to the United States Patent and Trademark Office, Attn: Office of Petitions, fax no. (571) 273-8300 on: 10 April 2008


Signature

10 April 2008
Date of Signature

Attn: Office of Petitions
Commissioner for Patents
United States Patent and Trademark Office

RENEWED PETITION

Sir:

An Appropriate Amendment to a non-final Office action mailed September 13, 2005 accompanied a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b), and both were duly filed with applicable fees, February 25, 2008. In response to that, the Office issued a paper captioned ON PETITION, with a dismissal of the petition, stating "The petition is DISMISSED. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision... The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)." This paper meets those criteria.

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The ON PETITION also made clear, the petition was dismissed because its delay alone failed to satisfy 37 CFR 1.137(b)(3):

a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional;

This paper requests reconsideration based on the following facts. As the attached statement of Daniel L. Shepherd shows, his co-inventor (his former partner Phil Gallegos, Jr.), told him that whatever had to be done to file the at-issue response, Mr. Gallegos would address, as Mr. Shepherd became sick and sufficiently ill to be hospitalized followed by a long-term convalescence through December 2007. Thereafter, after Mr. Shepherd determined for the first time his co-inventor wanted nothing to do with this invention, anymore, and that (with possible "partnership fiduciary duty" breach) the application had been abandoned through inaction. Here, no intent to delay existed for the Petitioner, Mr. Shepherd; nor any intent to abandon ever exist.

Mr. Shepherd, immediately following his convalescence, in January or February of 2008, called his patent lawyer, and sought the status of this case. That was the first time he became aware the case had been abandoned.

From that time, it was quite quick, and without delay that an Amendment to a non-final Office action mailed September 13, 2005 and a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) were filed. It was mere weeks.

This fully meets the 37 CFR 1.137(b) mandate showing this Applicant unintentionally delayed the filing of the Response, but

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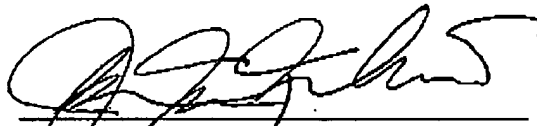
immediately filed a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) when notified the case was abandoned.

The ON PETITION states "the renewed petition must be accompanied by an explanation for said delay including, but not limited to, the considerations provided in MPEP § 711.03(c) cited above."

Mr. Shepherd's statement addresses this delay from his intent. It would be patently unjust to accord whatever negligence or intent his co-inventor (and now ex-partner) had, to him, and not revive this case.

Therefore, this renewed petition humbly requests the petition be granted, the amendment be entered, and the patent application be

Respectfully submitted,



Jordan M. Meschkow
Attorney for Applicants
Reg. No. 31,043

Dated: 10 April 2008

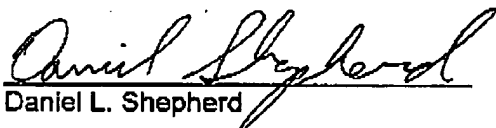
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Statement of Daniel L. Shepherd

1. I am Daniel L. Shepherd, a listed co-inventor of United States Patent Application Serial Number 10/729,809 entitled *SCAFFOLD AND ACCESS BRACE FOR SAME*;
2. In September 2005, I received a copy of a letter sent to me by my patent lawyer, concerning a 13 September 2005 document pertaining to our patent application;
3. Later in September 2005, I, as well as my then-partner and co-inventor Phil Gallegos, Jr., met to discuss this letter;
4. I then left my then-partner and co-inventor Phil Gallegos, Jr., who told me, he would take care of any issues concerning the letter, and "not to worry about it." I left my copy of that letter with my then-partner and co-inventor Phil Gallegos, Jr.;
5. Between September 2005 and December 2007, I was quite ill, and spent much time in the hospital and in recovery at home;
6. Sometime in January or February 2008, I called my patent lawyer, explained partner and co-inventor Phil Gallegos, Jr. no longer had anything to do with this invention, and sought the status of this case. I was then told for the first time, it had been abandoned;
7. Since my then-partner and co-inventor Phil Gallegos, Jr. had told me he would take care of any issues concerning the letter, and "not to worry about it", I was shocked to learn the patent application was abandoned;
8. On information and belief, my then-partner and co-inventor Phil Gallegos, Jr. never did contact or return calls to our patent lawyer;
9. My then-partner and co-inventor Phil Gallegos, Jr. has recently expressed to me, he wants nothing to do with this invention, anymore;
10. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.


Daniel L. Shepherd4-10-08
Date